UNITED STATES DISTRICT COURT WESTERN DISTRICT OF NORTH CAROLINA CHARLOTTE DIVISION DOCKET NO. 3:15-cv-00364-FDW-DCK

DEMETRIUS VONCEIL SMITH)	
Plaintiff,)	
VS.)	ORDER
CAROLYN W. COLVIN, Acting Commissioner of Social Security,)))	
Defendant.)	
)	

THIS MATTER is before the Court *sua sponte* concerning the status of this case. On August 11, 2015, *pro se* Plaintiff filed a Complaint against Defendant Commissioner of Social Security, Carolyn W. Colvin, seeking judicial review of the denial of Plaintiff's application for Social Security benefits. (Doc. No. 1). On August 13, 2015, Plaintiff was granted leave to proceed *in forma pauperis*. (Doc. No. 3). On October 19, 2015, Defendant filed a Motion to Dismiss Plaintiff's Complaint. (Doc. No. 9). Plaintiff was allowed up to, and including, November 5, 2015 to respond to Defendant's Motion. Plaintiff failed to respond.

On November 10, 2015, the Court entered *sua sponte* a <u>Roseboro</u> Notice advising Plaintiff of her right to respond to Defendant's Motion and warning that failure to do so could result in the dismissal of her Complaint. (Doc. No. 11). This document was erroneously deleted from the electronic docket. (Doc. No. 11). It is unclear whether Plaintiff received this Notice by conventional U.S. Mail before the electronic version was deleted. Regardless, the Court issued another <u>Roseboro</u> Notice on November 30, 2015 advising and warning Plaintiff of the same rights and consequences and, further, set a deadline for Plaintiff to respond to Defendant's Motion no later than December 22, 2015. (Doc. No. 12). As of the date of this Order, Plaintiff

has neglected to respond to Defendant's Motion to Dismiss. Moreover, it appears from the record that Plaintiff has taken no action in this case since filing the Complaint in August 2015.

IT IS, THEREFORE, ORDERED that Plaintiff's Complaint is **DISMISSED**WITHOUT PREJUDICE pursuant to Federal Rule of Civil 41(b) for failure to prosecute this case. The Clerk of Court is respectfully directed to close this case.

The Clerk of Court is further directed to send a copy of this Order to Plaintiff by certified mail, return receipt requested.

IT IS SO ORDERED.

Frank D. Whitney

Chief United States District Judge